IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 10TH AUGUST 2006 / 19TH SRAVANA 1928

Bail Appl..No. 4905 of 2006

CRIME NO.210/2006 OF MOKKAM POLICE STATION

PETITIONER/ACCUSED

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1. AUGUSTINE @ THANKACHAN,
   S/O.CHACKO,
   CHENNAKUDIYIL HOUSE, NEELESWARAM AMSOM DESOM,
   THIRUVAMBADY VIA, KALURUTTY P.O.,
   KOZHIKODE DISTRICT.

2. LISSY, W/O.AUGUSTINE @ THANKACHAN,
   CHENNAKUDIYIL HOUSE, NEELESWARAM AMSOM DESOM,
   THIRUVAMBADY VIA, KALURUTTY P.O.,
   KOZHIKODE DISTRICT.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. THE S I OF POLICE, MOOKKAM POLICE
   STATION.

2. STATE REP.BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR K. RAVIKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 4905/2006

DATED THIS THE 10TH DAY OF AUGUST, 2006

O R D E R

The petitioners are accused 1 and 2, in crime No.210/2006 of Mokkam Police Station. The offence alleged against them are under Sections 447, 294(b), 325 and 307 IPC read with Section 34 IPC.

2. It is alleged that the petitioners, because of the previous enimity, had trespassed into the house of the defacto complainant, a woman, at 10.00 p.m., on 23.7.2006 and caused injuries to the husband and son of the defacto complainant. C.D file had been produced before me. I had perused the wound certificate of the husband of the defact complainant, who is aged about sixty years. It show that he had sustained the stab wound of 3 X 2 X 1 cms., on the left iliacfossa with a small bowel protruding through the wound. There was another stab wound of 3 X 2 X 1 cms., on the left knee lateral aspect, extending upto thigh. The son of the defacto complainant,

33 year old man, also sustained 3 X 1 X 1 cms penetrating wound over the left hypochondrium, and 1 X 1 cms incised wound in the epigastrium.

3. The learned counsel for the petitioners submitted that the petitioners also sustained injuries. He had produced Annexure-I. It reveal that the second petitioner, the wife of the petitioner, had complaint of pain, over the right wrist and dorsum, and left hip. Impression, on examination, was that there was contusion. There was no injury on the first petitioner, the husband of the second petitioner.

4. The materials available clearly show that there was a dispute between the defacto complainant as well as the petitioners, as the defacto complainant and her family members denied the petitioner from drawing electric line through the property of the defacto complainant. The petitioners had trespassed into the house at night, at 10.00 p.m., and caused injuries on them. Therefore, primafacie it reveals, unless proved otherwise, that they are the aggressors and trespassers

and caused injuries, as stated above. The injury sustained by the second petitioner is very simple in nature. Therefore, I find that there is no reason to give an order under Section 438 Cr.P.C. Hence, the prayer is rejected.

5. If the petitioners are so advised, they may surrender before the authorities concerned and face the proceedings, as per the law.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs